

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.237 OF 1987

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

SHRI M.A.DESAI & ANR.
VERSUS
STATE OF GUJARAT & ANR.

Appearance:

MR SV PARMAR for the Petitioners
MR LR PUJARI, AGP for the Respondents

Coram: S.K. Keshote,J
Date of decision:04/05/1998

C.A.V. JUDGMENT

#. The petitioners, two in number, the officers of the

Education Department, Government of Gujarat, filed this Special Civil Application before this Court and made the following prayer:

- (i) issue writ of Mandamus or any other appropriate writ, direction or order directing the respondents to finalise the seniority list of Gujarat State Education Service Class I Officers, and
- (ii) issue writ of Mandamus and/or any other appropriate writ, direction or order directing the respondents to relieve the junior officers who have been posted on senior posts by way of down-grading the same. The petitioners presently cite examples of Shri H.N.Hingu and Shri P.V.Patel. If in the meantime any other persons are similarly posted the Hon'ble Court may cover cases of such officers in the writ that may be issued.
- (iii) issue writ of Prohibition and/or Mandamus or any other appropriate writ, direction or order directing the respondents not to fill in the higher rung posts without finalising seniority of Class I Education officers....

#. From the first prayer made aforesaid, it is clear that the petitioners prayed for directions to the respondents to finalise the provisional seniority list of the Gujarat State Education Service Class I Officers. From the second prayer, it transpires that acting on the provisional seniority list, some of the officers have been promoted, but the petitioners have not impleaded those officers as party to this Special Civil Application. The petitioners filed an application for amendment of the Special Civil Application and by this amendment, they have brought on record the fact that the respondents issued the order of promotions of the officers mentioned in para-2 of the draft amendment. The learned counsel for the petitioners, on being asked by the Court, is unable to state whether till date that provisional seniority list has been finalized or not. Similar is the position of the respondent's counsel also. It is really sorry state of affairs that even the learned counsel who is appearing for the State is unable to say before this Court whether that provisional seniority list has been finalized or not. Normally by this time, that provisional seniority list would have been finalized.

#. Be that as it may, interest of justice will be met in

case this writ petition is disposed of in terms that in case the provisional seniority list of the Gujarat State Education Service Class I Officers has not been finalized till date, then the same may be finalized within a period of three months from the date of receipt of copy of this order. However, it is made clear that in case that list has already been finalized, then this exercise is not required to be undergone by respondents, and in that eventuality, the Special Civil Application shall stand dismissed, Rule shall stand discharged automatically. The Special Civil Application and Rule stand disposed of in aforesaid terms with no order as to costs.

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(sunil)